

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Petition Pursuant to 47 U.S.C. §160(c))	WT Docket No. 02-377
For Forbearance From E911)	
Accuracy Standards in Section 20.18(h))	
Of the Commission's Rules)	

COMMENTS
OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

The National Telecommunications Cooperative Association (NTCA)¹ hereby submits these comments in support of the Petition for Forbearance from E911 Accuracy Standards Imposed on Tier III Carriers for Locating Wireless-Subscribers. NTCA believes that the forbearance request of the Tier III carriers represents a reasonable solution to an expensive and on-going E911 deployment issue. In recognition of technical and economic limitations, the forbearance petition requests that the Commission temporarily relax the accuracy standards for the smallest wireless carriers, while still holding all carriers to strict implementation deadlines.

As explained in the petition, wireless carriers may comply with their E911 accuracy obligations in two ways. They may deploy a network-based solution, or they may deploy a handset-based solution. Both of these solutions present unique challenges

¹ NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents 560 rural rate-of-return regulated incumbent local exchange carriers (ILECs). All of its members are full service local exchange carriers, and many members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended (Act). All of NTCA's members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.

to rural carriers and it is likely that rural carriers will be unable to completely comply with the Commission's E911 accuracy standards no matter which technology they choose.

Network Based Solution

The network-based solution to E911 depends on a triangulation process. The coverage from several cell sites must overlap in a way that pinpoints a mobile position. Often, rural areas lack the ubiquitous coverage necessary to achieve triangulation to the degree of accuracy required by the Commission's rules. NTCA's members provide wireless service to vast expanses of territory with very few subscribers. They must reduce cost by employing omnidirectional antennas with minimal overlap in their buildout design. Alternatively, they may concentrate buildout along highways, creating a linear buildout pattern. Such buildouts make location pinpointing using triangulation difficult and less accurate than the Commission desires. Further, many rural areas have the harshest terrain, creating hills and valleys that may be covered by only one cell site, making triangulation impossible.

The only way many rural carriers choosing a network-based solution could achieve the degree of location accuracy required by the Commission's E911 rules is through a massive build-out effort. Since many states lack E911 cost recovery mechanisms, the only way rural carriers could recoup the substantial investment would be through their subscribers. Small, rural carriers simply lack the customer base over which to spread such a burden.

The burden is such that rural telephone companies currently providing wireless service may be forced to either raise their rates to unsustainable levels or forego providing wireless service altogether. Neither solution is a real choice and since many large carriers are unwilling to invest in rural communities with limited opportunity for returns, the rural consumer loses. Accuracy requirements are meaningless in an area unserved by a wireless provider.

Handset Solution

It is unknown whether ALI-capable handsets will provide the degree of location specificity required by the Commission's rules. Capable handsets must communicate with GPS satellites. E911 calls from ALI-capable handsets may be adversely affected by dense foliage, operation from an automobile or from the bottom of a canyon, scenarios likely encountered in rural areas. The technology has not been sufficiently tested in real-world rural situations to know whether or not it will satisfy the Commission's requirements. Handsets are not yet readily available and widespread rural deployment has not been achieved. Accurate data about the achievable accuracy of ALI-capable handsets in rural areas is not yet available.

Forbearance

A network-based E911 solution will require rural carriers to spend significant resources to deploy many more cell sites solely to meet the FCC accuracy requirements. Handset-based solutions provide no guarantee of compliance. Rural carriers today face possible enforcement actions regardless of the technical ability to achieve compliance. They cannot know how far they must go, or how much they must spend, in their effort to comply with accuracy requirements that may not be economically achievable. The

significant costs involved may threaten not only necessary network upgrades and buildout, but may actually threaten the ability of some rural wireless carriers to survive in today's competitive environment.

The petition seeks limited relief. The Tier III Coalition requests that the Commission forbear from enforcing the accuracy standards of Section 20.18(h)(1) and (2) with respect to Tier III carriers operating in their licensed service areas. The request is for a limited period, up to December 31, 2005. Despite the forbearance, Tier III carriers would continue to be obligated to comply with most of their E911 obligations. They would still have to order, install and optimize Phase II technical solutions within six months of a PSAP request or by September 1, 2003, whichever occurs later.

The forbearance would merely permit Tier III carriers to deploy network-based Phase II solutions from presently existing transmitting facilities, utilizing existing cell site antenna configurations. Carriers choosing handset technology would not be required to do further enhancements to the available handset-based solution to increase accuracy levels. If the available handset-based solution achieves the required level of accuracy, the forbearance petition does no harm. However, under forbearance the carriers will be deemed compliant, even if their level of accuracy is somewhat below what the Commission desires in its rules.

The Tier III coalition points out that a petitioner for forbearance under Section 10 need only show that the subject rule is not necessary to ensure that a carrier's charges,

practices and classifications are just, reasonable and nondiscriminatory, nor is it necessary to protect consumers, and that forbearance is generally pro-competitive.²

Considering the first prong, the accuracy requirements are not necessary to ensure rural carriers' charges and practices are just, reasonable and nondiscriminatory. In fact, compliance with the network based solution may cause rates and charges to rise to prohibitive levels and thus become unreasonable.

Under the second prong, NTCA acknowledges that the Phase II E911 rules are designed to protect consumers, but the cost of compliance may actually have negative public safety implications. Strict enforcement may reduce reliability and extent of deployment, while raising the costs of rural wireless service. The consumer is better protected if the forbearance petition is granted.

Similarly, the Commission's pro-competitive goals may be protected if rural carriers are permitted to deploy E911 solutions that are technically and economically achievable. The current rules may force rural carriers out of the wireless business altogether. This does not advance competition.

As the Tier III Coalition points out, the forbearance request is for a fixed, limited period. During the forbearance period, small, rural carriers will continue to work with equipment vendors to improve accuracy levels. Accuracy and reliability of rural Phase II systems will improve as the technology does.

² Petition, p. 11.

Conclusion

NTCA supports the Tier III coalition request for limited forbearance from the Commission's E911 accuracy requirements. These small carriers are not seeking forbearance from the bulk of the E911 obligations, but only ask that the Commission consider the technical and economic limitations of serving rural areas.

The Commission should grant the forbearance petition, authorizing Tier III carriers to install network and handset-based Phase II solutions within the coverage area of their respective networks from existing transmitting facilities.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Gail Malloy, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in WT Docket No. 02-377, DA 02-3470 was served on this 24th day of January 2003 by first-class, U.S. Mail, postage prepaid, to the following persons.

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